Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554



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| In the Matter of | ) | |
| | ) | |
| The Use of N11 Codes and | ) | CC Docket No. 92-105 |
| Other Abbreviated Dialing | ) | |
| Arrangements | ) | |

# REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.

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## SUMMARY

In the NPRM, the Federal Communications Commission ("Commission") has proposed to establish two new rules which, if adopted, would require local exchange carriers ("LEC") to make N11 numbers, such as 211, 311, 511, and 711 available to users, so long as those numbers have not been assigned for other uses by the Administrator of the North American Numbering Plan. In its comments in this proceeding, U S WEST Communications, Inc. ("USWC") opposed the adoption of the proposed N11 rules on the basis that they would confer an unfair advantage to a few information service providers ("ISP"), and thus, would not promote a diversity of information sources. In addition, the rules could foreclose the use of this important and limited resource for other purposes that would better serve the public interest.

The comments in this proceeding reveal opposition to the proposed rules from representatives of every segment of the telecommunications industry, including ISPs, end users, the computer software and services industry, interexchange carriers ("IXC"), a competitive access provider ("CAP"), and LECs. The reasons cited by the opponents of the rules include -- the rules would confer an unfair competitive advantage to a few ISPs; the demand for N11 numbers already exceeds the very limited supply; customer confusion from inconsistent local applications; assignments to ISPs today could preclude future national public

service uses including the use of N11 numbers as future area codes; technical limitations in LEC networks; the cost of network infrastructure upgrades necessary to implement N11 routing, billing and recording, and jurisdictional issues.

Given the problems that would result from the adoption of the proposed N11 assignment rules and given the potential attractiveness of the alternative addressing arrangements, USWC believes that the industry -- such as ISPs, IXCs, payphone providers, cellular carriers, CAPs and LECs -- would be better served by a process that would develop a Commission policy for the reservation, assignment, and use of the limited N11 resource for future public service applications.

In addition, the Commission should develop principles that could guide the development of an ISP addressing scheme that would balance the market demands for an abbreviated and/or national/international dialing arrangement for ISPs with the requirement to conserve a limited international, World Zone 1 numbering resource. After these principles have been adopted, the Commission should refer the development of an ISP addressing scheme to an appropriate industry forum, such as the Information Industry Liaison Committee ("IILC"). The technical and administrative issues that must be considered in the development of such an addressing scheme can best be accommodated by such an industry forum.

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**REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.**

U S WEST Communications, Inc. ("USWC"), through counsel and pursuant to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking ("N11 NPRM" or "NPRM"), hereby files its reply comments in the above-captioned rulemaking proceeding.[1]

## I. INTRODUCTION

In the NPRM, the Commission has proposed to establish two new rules which, if adopted, would require local exchange carriers ("LEC") to make N11 numbers, such as 211, 311, 511, and 711 available to users, so long as those codes have not been assigned for other uses by the Administrator of the North

[1] The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Notice of Proposed Rulemaking, 7 FCC Rcd. 3004 (1992). The due date for reply comments was subsequently extended to July 13, 1992 by the Common Carrier Bureau. See Order, DA 92-779, rel. June 15, 1992.

American Numbering Plan.[2] In its comments in this proceeding, USWC opposed the adoption of the proposed N11 rules.[3]

The comments filed in this proceeding reveal substantial opposition to the Commission's proposed rules. Opposition to the proposed rules came from: information services providers ("ISP"),[4] end users,[5] the computer software and services industry,[6] interexchange carriers ("IXC"),[7] a competitive access provider ("CAP")[8] and LECs.[9] The reasons presented by various commentors for opposing the proposed N11 rules include, inter alia, that: the proposed rules would confer an unfair competitive

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[2]See N11 NPRM, 7 FCC Rcd. at 3005 ¶ 12, 3006 (Appendix A).

[3]See Comments of USWC, filed herein June 5, 1992. All subsequent references to other parties' comments herein are styled as follows: "Party's name at _____."

[4]See BT North America Inc. ("BTNA") at 4; Information Industry Association ("IIA") at 2-3.

[5]See Ad Hoc Telecommunications Users Committee ("Ad Hoc") at 2-3.

[6]See Information Technology Association of America ("ITAA") at 1, 3-4.

[7]See American Telephone and Telegraph Company ("AT&T") at 2-3; Sprint Corporation ("Sprint") at 1.

[8]See Metropolitan Fiber Systems, Inc. ("MFS") at 1, 7.

[9]See Ameritech Operating Companies ("Ameritech") at 3-11; Bell Atlantic Telephone Companies ("Bell Atlantic") at 1; Central Telephone Company ("Centel") at 1; GTE Service Corporation ("GTE") at 1; National Telephone Cooperative Association ("NTCA") at 1; NYNEX Telephone Companies ("NYNEX") at 3-8; Pacific Bell and Nevada Bell ("Pacific") at 3-13; Puerto Rico Telephone Company ("PRTC") at 4; Rochester Telephone Corporation ("Rochester") at 3-4; Southern New England Telephone Company ("SNET") at 2-4; Southwestern Bell Telephone Company ("SWBT") at 1-10.

advantage to a few ISPs;[10] demand for N11 numbers already exceeds the limited supply;[11] customer confusion from inconsistent local applications;[12] national public service uses could be precluded;[13] technical limitations in LEC networks;[14] need to reserve N11 codes for future area codes;[15] current uses of N11s would need to be abandoned;[16] cost;[17] and jurisdictional issues.[18] USWC suggested in its comments that the Commission should be guided by a set of principles that would include the following as it considers the uses for N11 numbers:

> The public interest has been well served by the use of N11 codes for public applications, such as 911 for emergency services. The very limited supply of the remaining codes

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[10]See Ad Hoc at 2-3; IIA at 3; GTE at 1-2; ITAA at 3-4.

[11]See Ameritech at 2 n.2, 7; GTE at 7 n.11; Pacific at 9 n.15; SWBT at 6 n.10; USWC at 21.

[12]See Ad Hoc at 2, 4; AT&T at 4 n.*; Canadian Steering Committee on Numbering ("CSCN") at 1; MCI Telecommunications Corporation ("MCI") at 3; MFS at 5-6; NYNEX at 7; Pacific at 6, 13; Sprint at 6; USWC at 22-23.

[13]See AT&T at 4 n.*.

[14]See GTE at 4; PRTC at 4; United States Telephone Association ("USTA") at 17-18.

[15]See AT&T at 3 n.*; BTNA at 4 and n.4; CSCN at 1; Bell Communications Research ("Bellcore") as North American Numbering Plan ("NANP") Administrator at 6-7.

[16]See Ameritech at 1-2; Anchorage Telephone Utility ("ATU") at 1-2 and n.2.

[17]See American Public Communications Council ("APCC") at 4; GTE at 4-5; NYNEX at 4 n.4; PRTC at 4; SWBT at 4-5; USTA at 18.

[18]See Ameritech at 11; ATU at 2-3; BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") at 11-12; BTNA at 7; NTCA at 5 and 7-9; NYNEX at 10 n.16; Pacific at 9 and 17-18; PRTC at 1 n.2; SWBT at 8; USTA at 23; USWC at 4-5, 21-22.

> argues for conservation -- to ensure that future generations have access to this very limited resource.
>
> Any addressing scheme adopted for use by the information services industry should promote a diversity of information sources by reasonably accommodating a maximum number of ISPs, and should not confer an unreasonable competitive advantage to any industry member.[19]

Based on these principles, USWC proposed that, rather than assign the very limited supply of N11 numbers to a few ISPs, the Commission should consider alternative arrangements for information services, such as seven-digit arrangements like 555-XXXX or N11-XXXX, which could accommodate as many as 10,000 ISPs.[20] USWC urged the Commission to reserve N11 numbers for national public service uses.[21] USWC continues to believe that the industry -- ISPs, IXCs, payphone providers, cellular carriers, CAPs and LECs -- would be better served by a Commission policy that reserves the assignment and use of N11 numbers for national public service applications.

In addition, the Commission should develop principles that could guide the development of an ISP addressing scheme that would balance the market demands for an abbreviated and/or national/international dialing arrangement for ISPs with the requirement to conserve a limited international, World Zone 1 numbering resource. After adopting the proposed principles, the Commission should refer the development of an ISP addressing

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[19]USWC at 10.

[20]See id. at 10-11.

[21]See id. at 9, 10-11, 16-17.

scheme to an appropriate industry forum, such as the Exchange Carrier Standards Association's Information Industry Liaison Committee ("IILC"). The many technical and administrative issues that must be considered in the development of such an addressing scheme can best be accommodated by such an industry forum.

## II. NUMEROUS PROBLEMS ARE ASSOCIATED WITH THE LOCAL ASSIGNMENT OF N11 NUMBERS FOR NON-PUBLIC SERVICE USES

Below, USWC reviews the many concerns raised by commentors with respect to the Commission's proposed N11 number assignment rules.

### A. The Proposed Assignment Of N11 Numbers Would Confer An Unfair Competitive Advantage On A Few Assignees

USWC noted in its comments that it had already received more requests for N11 number assignments than could be accommodated by the supply of N11 numbers.[22] Since filing its comments, USWC has received an additional request, and requests to USWC for N11 number assignments now total eleven for the four to six N11 numbers to be made available under the Commission's proposed rules. This assumes that 911 and 411 would continue to be used for emergency and directory assistance services. Comments from other LECs suggest that USWC's experience concerning the demand

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[22] See id. at 21.

for N11 number assignments is not unique.[23]

It is clear from the comments that the limited supply of N11 numbers cannot accommodate the demand for such numbers from ISPs, IXCs, paging companies and others. As a result, several of the commentors agree that any assignment scheme, whether based on a first-come, first-serve,[24] lottery, bidding, or any other process, will inevitably provide a few recipients of the numbers with a competitive advantage.[25] Such a result can only stifle

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[23]See SWBT at 6 n.10 (emphasis in original): "SWBT has already received more requests for N11 codes than the number of available codes." See also Ameritech at 2 n.2: "[T]he Companies have already received requests for N11 codes from an IC and a wireless carrier, among the eleven requests it has received so far;" GTE at 7 n.11: "GTE's telephone companies have received requests from MCI, Professional Business Systems, Vantage Information Systems, and Mobile Telecommunications Technologies [Corporation ("Mtel")]." And see Datatrex at 1: "We have requested . . . one of the N11 codes . . . to offer a consistent, nationwide means of access to our [proprietary information] service." See also Mtel at 2 (footnote omitted): "Mtel recently requested . . . the 511 code for nationwide access to its SkyTel and NWN services;" Pacific at 9 n.15.

[24]USWC has recorded its N11 requests in order of receipt, and thus is prepared to make assignments on this basis if required to do so by this Commission. USWC is nevertheless concerned that such a process would confer a N11 assignment to one or more parties who provide little or no detail on their proposed use of such a code. As a result, this Commission cannot be assured that a N11 assignment based purely on a first-come, first-serve basis would meet any reasonable public interest/benefit test.

[25]See Ad Hoc at 2-3, 6-8; BTNA at 5; CSCN at 2; GTE at 7; ITAA at 7; NYNEX at 4-5; Pacific at 8-9; Rochester at 4; SNET at 3-4; USTA at 6, 27; USWC at 9.

competition in the markets served by the assignee of N11 numbers.[26]

The commentors discuss a considerable number of potential uses for N11 codes -- in fact, more potential uses than there are available N11 codes. These applications would provide N11 dialing access to pay-per-call,[27] a national paging provider,[28] pay-phone operator provided voice-messaging services,[29] pay-phone repair services,[30] personal numbering services,[31] abbreviated access to interexchange carriers,[32] traffic

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[26]Cox Enterprises, Inc.'s ("Cox") continual assertion that the former Bell Operating Companies' ("BOC") refusal to assign N11 codes to enhanced service providers is an attempt to thwart competition to BOC enhanced services provided through the 411 code is refuted by the comments of several BOCs. See Cox at 7-8. But also see Pacific at 4; BellSouth at 3; Ameritech at 3 n.4; Bell Atlantic at 3 n.4. USWC can also state that it has no plans to offer enhanced services through the 411 access arrangement.

In the event the Commission should proceed with its proposal to make N11 codes available to enhanced service providers, USWC agrees with Cox that LECs that make N11 codes available for use by enhanced service providers should be permitted to use a N11 code for their own enhanced services. See Cox at 23. See also Ameritech at 3 and n.4, 4; BellSouth at 6-7; Pacific at 4 and n.6.

[27]See Cox at 4; Alternative Weekly Newspapers, et al. ("Alternative Newspapers") at 3-4.

[28]See Mtel at 2.

[29]See APCC at 2-3.

[30]See Pacific at 6.

[31]See AT&T at 3-4.

[32]See Pacific at 9-10.

information,[33] disabled access,[34] hearing impaired access,[35] local transportation on demand,[36] tornado/hurricane information,[37] separate N11s for police, fire, and medical emergencies,[38] non-dire emergency reporting[39] and N11 gateway services.[40] While this list is not exhaustive of all of the potential applications for N11 numbers, it is clear that the limited supply of numbers cannot accommodate all of these possible uses, regardless of their potential benefit to the public.

The limited supply of N11 numbers and the inexhaustible list of potential applications for their use requires that the Commission develop a national public service standard against which the appropriateness of any proposed use for a N11 number can be judged. The establishment and implementation of such a standard should be a condition precedent for the assignment of available N11 numbers.

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[33] See NANP Administrator at 7-8.

[34] See id.

[35] See Ameritech at 5-6.

[36] See NANP Administrator at 8.

[37] See Ameritech at 5-6.

[38] See id.

[39] See Pacific at 3-5.

[40] See Bell Atlantic at 1; Pacific at 19-20.

## B. N11 Number Assignments Should Not Be Limited To Information Or Enhanced Services

The NPRM solicited comment on whether N11 numbers should be made available for purposes other than enhanced or information services.[41] Among the commentors addressing this question, none supported limiting N11 assignments to ISPs. Among the commentors that affirmatively opposed such restrictions on the assignment of N11 codes was Cox. Cox stated that:

> [W]hile Cox intends to use an N11 number in Atlanta for local pay-per-call services, other users (and Cox itself, either in the future or in other cities) may have uses for N11 numbers or other alternative dialing arrangements that do not involve pay-per-call services. . . . [T]he imposition of restrictions on the use of N11 codes is not in the public interest.[42]

USWC agrees with Cox that the Commission should not restrict the use of N11 codes to ISPs, in the event that N11 numbers are made available for non-public service applications.[43]

USWC also agrees with the comments of Pacific:

> If the Commission limits the assignment of N11 codes to enhanced service providers, problems of enforcement arise. Who determines whether a company is truly providing enhanced services? The Pacific Companies should not be charged with policing the use of the public network. Many companies, including interexchange carriers, also operate as enhanced service providers. Who will determine whether, for a particular application, a company is either an enhanced service provider or an interexchange carrier? The Pacific Companies do not want to become the watchdog as to whether a

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[41] See N11 NPRM, 7 FCC Rcd. at 3005 ¶ 14.

[42] Cox at 10. See also AT&T at 7 n.*; BellSouth at 6; Mtel at 5; Newspaper Association of America ("NAA") at 3.

[43] See USWC at 20.

company is truly providing an enhanced service.[44]

LECs should not be required to make assessments of whether or not a service proposed by an applicant for a N11 number constitutes an enhanced or information service. Nor should LECs be required to deny N11 number assignments in the event the assessment suggests that the service does not fall within the Commission's enhanced services definition.

C. Customer Confusion From Inconsistent Local Uses

Cox states in its comments that a:

> [U]niform numbering policy is essential to the operation of a nationwide telephone network. Uniform numbering makes it possible for telephone users across the country to reach each other and use the telephone no matter where they are. Any contrary state practices would undermine the integrity of the national network.[45]

USWC agrees with this statement. However, USWC also believes that the assignment of N11 numbers to different non-public service uses in different parts of the country, as Cox proposes, would be wholly inconsistent with the notion of uniform national numbering.[46]

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[44]Pacific at 10. See also SWBT at 7.

[45]Cox at 9.

[46]E.g., AT&T at 4 n.*: "[U]sing a particular N11 code for disparate information services in different parts of the country could not only result in customer confusion, but could seriously erode the public interest value of the existing nationwide, community service type applications that currently use N11 codes." Also MCI at 3: "[W]ith respect to N11 codes, the public interest would best be served if the Commission were to adopt a requirement that nationally ubiquitous uses be given priority over regional or purely local applications."

Several commentors discuss the customer confusion that would result from the proposed assignment of N11 numbers absent a national public service standard. Confusion would result from the assignment of N11 numbers for diverse and potentially conflicting uses in different areas by different network providers. For example, 511 might be assigned by one LEC to an ISP for a pay-per-view service. A second LEC could assign it to a paging supplier, a cellular carrier could assign it for a traffic reports service, and another competing cellular carrier could assign it for access to its business office. The 511 number could also be assigned to a payphone provider or for a voice messaging service, as well as to a CAP or a personal communications service provider for a variety of applications.[47] It seems obvious that the many uses to which a single N11 number could be put within a relatively small geographic region makes it virtually certain that the local assignment of N11 numbers for inconsistent uses would leave the public hopelessly confused.

D. Technical Limitations In LEC Networks

Cox states that:

> Implementing local N11 code assignments will be relatively simple. Switches already are capable of locally routing N11 calls, as they do today for 411, 611, 811, and 911 calls. . . . Consequently, the benefits of local assignment of N11 codes will come at very little cost.[48]

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[47] See MFS at 5-6. APCC proposes that a particular N11 code be permitted to be assigned to its own voice messaging service, while the same N11 code, in the same geographic area, be assigned to other enhanced services providers. See APCC at 2-3.

[48] Cox at 5.

Contrary to the assertion of Cox, the comments of USWC and others suggest that a substantial number of technical issues must be addressed to permit unrestricted N11 assignments. In its comments, USWC discussed the limited ability of step-by-step ("SXS") switches to process calls to N11 numbers without switch upgrades or routing those calls to a tandem switch for call processing through the dialing of a "1+" prefix.[49] Other parties point out that central office switches are not generally equipped with the capability to selectively block calls to N11 codes -- which would be required under the Commission's rules.[50] Pacific states that the cost of implementing N11 addressing for unrestricted uses will depend greatly on the associated network routing configuration (i.e., line side vs. trunk side routing).[51] GTE states that its switches are currently not equipped to bill or record calls to N11 numbers.[52]

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[49]USWC at 16. In its discussion at page 16, USWC stated that it "is not able to ascertain at this time the number of step-by-step switches which cannot handle N11 dialing with it being preceded by '1.'" The sentence should have read: "USWC is not able to ascertain at this time the number of step-by-step switches which cannot handle N11 dialing without it being preceded by '1.'"

[50]PRTC states that Section 223(c)(1) of the Communications Act would require LECs to provide blocking on N11 calls to certain pay-per-call services. See PRTC at 4.

[51]See Pacific at 16.

[52]See GTE at 4. See also USTA at 18.

## E. Need To Reserve N11 Codes For Future Area Codes

In its comments, Cox states that:

> [T]here is little reason to think that N11 codes will be used for area codes before 1995. While there is a possibility that traditional area codes will run out, five N00 codes remain unused, and it is by no means certain that any of th[e]se codes will be needed.[53]

This view is certainly not supported by the comments of the North American Numbering Plan ("NANP") Administrator. The NANP Administrator stated that:

> There are currently two requests for the assignment of an NPA code prior to 1995 and only one remaining unassigned code.[54]

While the NANP Administrator has proposed a swap of the 610 area code for a service access code ("SAC") to meet the current demand, the NANP Administrator cannot be certain whether its proposal will be accepted by the appropriate Canadian authorities.[55] Nor can the NANP be certain that no additional requests for area codes will be received prior to 1995. Further, since the industry has not resolved the issues surrounding the use of N00 rather than N11 codes as geographic area codes, the Commission should not assume that N00 codes are the most effective solution to a premature exhaustion of area codes.

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[53]Cox at 30-31 (footnote omitted). See also Mtel at 8.

[54]NANP Administrator at 6-7. See also AT&T at 3 n.*.

[55]See NANP Administrator at 6.

Cox also incorrectly claims that a N11 number assigned for local use could coexist with a N11 number assigned as an area code:

> Finally, even if N11 codes were assigned to be used as area codes or service access codes at some point in the future, that would not preclude their continuing use as local abbreviated access numbers. Under interchangeable NPAs, the numbers used for area codes are no longer distinct from the numbers used for local seven digit calls.[56]

Cox is mistaken. Such "coexistence" is not currently possible and will not be possible until 1995. Upon implementation of interchangeable central office codes within a particular area code, a given N0X or N1X code (i.e., a traditional area code) can be used as a central office code (i.e., the first three digits of a seven-digit telephone number). However, interchangeable central office codes have not been universally implemented. For the 19 area codes in USWC's service area where interchangeable central office codes have not been implemented, a N11 code assigned as an area code cannot coexist with a N11 number assigned for local use.

For example, in locations where interchangeable central office codes have not been implemented, distinguishing between area codes and central office codes is a simple matter because a given three-digit code is either an area code or a central office code. No three-digit code is used for both purposes.[57] Not

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[56]Cox at 32.

[57]In these locations, area codes always have a "0" or a "1" as the middle digit, while central office codes never have a "0" or a "1" as the middle digit.

surprisingly, central offices in such locations have not been equipped with the capability of supporting a single three-digit code for use as both an area code and a central office code. If a N11 number (e.g., the 511 number requested by Cox) were assigned as an address for a pay-per-view service and as an area code, central offices in the area could not distinguish the area code 511 from the pay-per-view address 511.

With the implementation of interchangeable Numbering Plan Areas ("NPA") in 1995, most central offices will be able to distinguish between area codes and central office codes through use of a "1+" or "0+" prefix -- area codes will always be preceded by "0+" or "1+," while central office codes will never be preceded by a "0+" or "1+" prefix.

Even in areas where interchangeable central office codes have been implemented prior to 1995, and after implementation of interchangeable NPAs in 1995, a three-digit N11 and a N11 area code could not coexist, as Cox claims, in areas served by SXS central offices that require a "1+" prefix to route the call to a tandem or in areas that require toll-like calls (calls that carry a charge other than local exchange calls) to be preceded by a "1."[58] In this case, an end office or tandem would receive calls that have been dialed as "1-511" that were intended both as the initial digits of a ten-digit telephone number and "1-511" that was intended as a call to a local pay-per-call service. While the end office or tandem could theoretically delay call

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[58] See USWC at 16; GTE at 4; USTA at 17-18.

processing for a period of time to determine whether the end user will dial additional digits, such is not the practice in the network today. Nor should the practice be incorporated in the network in the future, due to the cost of upgrading every end office or tandem that must process such calls and the delays in call processing that would result.

Contrary to Cox's contention, the assignment of a three-digit N11 number for use as a local access arrangement by a pay-per-call provider would preclude the use of the same N11 number as an area code -- either before or after 1995. Thus, the assignment of a N11 number to a local dialing arrangement could not, as Cox suggests, coexist with the use of the same N11 number as an area code.

F. Costs

Cox claims that "the benefits of local assignment of N11 codes will come at very little cost."[59] The comments of a number of LECs who would provide the underlying network infrastructure to enable the proposed use of N11 numbers for pay-per-call and other local services suggest these costs are not de minimis.

These costs include the costs of number translations and changes to routing guides to accommodate the commercial use of a N11 code,[60] implementing switch modifications to enable the blocking of N11 calls where necessary to restrict access to

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[59] See Cox at 5.

[60] See NYNEX at 4 n.4; GTE at 4.

objectionable information services,[61] the cost of providing blocking to payphone operators for N11 addresses used for pay-per-call services, or, in the alternative, to develop a cost recovery system to permit payphone operators to receive compensation from LECs or providers,[62] the costs of modifying electromechanical switches,[63] the costs of billing and recording,[64] the cost associated with educating customers to use seven digit numbers in lieu of N11 numbers that are abandoned to provide N11s for commercial use,[65] and the cost to expand the supply of three-digit access arrangements once the initial supply of N11 numbers has been exhausted.[66] Clearly, these costs are not insignificant.

USWC agrees, in principle, with USTA:

> The mandatory nature of the proposed rule constitutes a new and previously unanticipated regulatory change for all carriers. As such, any direct, indirect or otherwise attributable costs should be deemed exogenous for price cap carriers.[67]

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[61] See PRTC at 3-4.

[62] See APCC at 4-5.

[63] See GTE at 4.

[64] See id. at 4-5; USTA at 18.

[65] See GTE at 5.

[66] See SWBT at 4-5.

[67] USTA at 25. It should be noted that the service proposed by Cox (i.e., pay-per-call services) are typically intrastate in nature. As a result, the recovery of the above costs would presumably occur primarily from intrastate tariffs. However, to the extent that costs associated with a N11 service are allocated to the interstate jurisdiction, these costs should be recovered

(continued...)

G. Jurisdictional Issues

While Cox argues that the need for uniformity would tend to preclude state action in the assignment of N11 numbers,[68] other commentors argue that the assignment of N11 numbers would raise serious jurisdictional issues. USWC has indicated its suppport for the assignment of N11 numbers using a national public service standard along with the development by the Commission of a set of principles to guide the reservation and assignment of N11 numbers.[69] Nonetheless, there may be areas of legitimate state interest which may make a total preemption of N11 numbering issues by the Commission extremely problematic.

States will be interested in several aspects of the Commission's proposal: the assignment of N11 numbers in those instances where the demand exceeds the supply; the recall of N11 numbers (including those codes currently in use by LECs, payphone and cellular customers as well as the recall of codes used by local pay-per-call and other commercial applications in the event a code will be reassigned for national use);[70] and the recovery of costs assigned to the intrastate jurisdiction.[71] These issues

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[67](...continued)
from N11 users through interstate tariffs designed to recover interstate costs on an exogenous basis.

[68]See Cox at 9.

[69]See USWC at 10-11, 16-17.

[70]See SWBT at 8.

[71]Id. at 8-9.

are likely to be of keen interest to state regulators, and the Commission's ability to preempt state action in these areas will be dependent upon the factual record developed in this proceeding and whether such facts support preemption. As NTCA states:

> The conclusion that the Commission has jurisdiction over codes that cellular carriers need to complete interstate calls in no way supports jurisdiction over codes used solely for local calls. . . . In this case, the Notice assumes plenary jurisdiction but fails to explain why assignment of local telephone numbers or dialing codes for access to local service providers is a practice solely within the federal jurisdiction. The Notice also fails to articulate any reason for effectively preempting state authority over all or any part of this practice which relates to intrastate communications services. The Commission has neither articulated the regulatory goals that would be achieved by preemption or indicated how these goals would be thwarted by state regulation.[72]

The ability of the Commission to come forward with a reasonable set of rules for the assignment, management and recovery of N11 numbers that is national in scope and protects against mass confusion in the use of N11 numbers, but at the same time does not encroach upon legitimate state interests, may be the single biggest challenge presented by this proceeding.

H. Erratum

In its comments, USWC stated that it does not use 611 for access to its repair services.[73] USWC should have stated it uses 611 for external (nonemployee) access to its repair services in

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[72] See NTCA at 7, 9 (emphasis in original; citation omitted).

[73] See USWC at 17.

fewer than five locations throughout its region. Also, USWC uses 611 to allow its technicians to access the test desk in a very limited number of locations.

## III. THE COMMISSION SHOULD INITIATE AN INQUIRY TO ESTABLISH PRINCIPLES SURROUNDING THE USE OF N11S AND THE DEVELOPMENT OF ADDRESSING ARRANGEMENTS FOR ISPS

### A. The Proposed Rules Should Be Withdrawn

As demonstrated above, Cox's contention that there are no technical or policy justifications for limiting the use of N11 numbers in any way simply ignores the limited supply of these numbers, overlooks the difficulties that would be encountered in recovering these codes for future national public service uses, particularly their use for future area codes, and substantially understates the technical issues raised by such use.[74] Moreover, representatives of the information services industry oppose the proposed rules on the grounds the assignment of the limited number of codes to a few of the information service providers would confer on those providers an unfair competitive advantage.[75]

As NTCA stated in its comments:

> On the basis of a single request for a local service to a single local exchange carrier, which the carrier honored, and the General Counsel concluded was lawfully honored, the Commission has tentatively concluded that it should require all LECs to honor such requests. Beyond the one request for a three digit access code, no public interest factors which

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[74] See Section II.D. supra.

[75] See Section II.A. supra.